

AMENDED IN SENATE APRIL 18, 2006

SENATE BILL

No. 1633

Introduced by Senator Ashburn

February 24, 2006

An act to amend Section 70 of, and to repeal Section 74.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1633, as amended, Ashburn. Property tax: seismic retrofitting: tax assessments.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution excludes from classification as "new construction" the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following the reconstruction or improvement. Pursuant to an authorization in the California Constitution, existing law excludes from classification as "new construction" the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

A proposed amendment to the California Constitution, Senate Constitutional Amendment _____ 28 of the 2005-06 Regular Session,

would eliminate, for purposes of the exclusion from classification as “new construction” of structures constructed of unreinforced masonry bearing wall construction, the requirement that the reconstruction or improvement to those structures be necessary to comply with a local ordinance relating to seismic safety, as specified, ~~and would, instead, require that the reconstruction or improvement be necessary for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.~~ That amendment would additionally exclude from classification as “new construction” ~~any the specific portion of construction or reconstruction of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies that are constructed or installed in existing buildings or structures, as specified components on an existing structure.~~

This bill would implement the proposed amendment to the California Constitution, and would also impose new duties on local building departments with respect to reporting the value of excluded improvements for structures constructed of unreinforced masonry wall construction. By creating new duties for local officials, this bill would impose a state-mandated local program. Also, by requiring specified persons to certify information regarding specific improvements to structures constructed of unreinforced masonry bearing wall construction, this bill would create a new crime, thereby imposing a state-mandated local program.

(2) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains

costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would take effect immediately as a tax levy but would become operative, as specified, only if Senate Constitutional Amendment _____ 28 of the 2005-06 Regular Session is approved by the voters at the ~~June 6, November 7, 2006~~, statewide ~~primary~~ general election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70 of the Revenue and Taxation Code is
2 amended to read:

3 70. (a) “Newly constructed” and “new construction” means:

4 (1) Any addition to real property, whether land or
5 improvements (including fixtures), since the last lien date; and

6 (2) Any alteration of land or of any improvement (including
7 fixtures) since the last lien date that constitutes a major
8 rehabilitation thereof or that converts the property to a different
9 use.

10 (b) Any rehabilitation, renovation, or modernization that
11 converts an improvement or fixture to the substantial equivalent
12 of a new improvement or fixture is a major rehabilitation of that
13 improvement or fixture.

14 (c) Notwithstanding subdivisions (a) and (b), where real
15 property has been damaged or destroyed by misfortune or
16 calamity, “newly constructed” and “new construction” does not
17 mean any timely reconstruction of the real property, or portion
18 thereof, where the property after reconstruction is substantially
19 equivalent to the property prior to damage or destruction. Any
20 reconstruction of real property, or portion thereof, that is not
21 substantially equivalent to the damaged or destroyed property,
22 shall be deemed to be new construction and only that portion that
23 exceeds substantially equivalent reconstruction shall have a new
24 base year value determined pursuant to Section 110.1.

25 ~~(d) (1) Notwithstanding subdivisions (a) and (b), “newly~~
26 ~~constructed” and “new construction” does not mean the portion~~
27 ~~of reconstruction or improvement to a structure, constructed of~~
28 ~~unreinforced masonry bearing wall construction, necessary for~~

1 seismic retrofitting improvements or improvements utilizing
2 earthquake hazard mitigation technologies, as defined in
3 subdivision (g).

4 (2) The property owner, primary contractor, civil or structural
5 engineer, or architect shall certify to the building department
6 those portions of the project that are seismic retrofitting
7 improvements or improvements utilizing earthquake hazard
8 mitigation technologies. Upon completion of the project, the
9 building department shall report the value of those portions of the
10 project that are seismic retrofitting improvements and
11 improvements utilizing earthquake hazard mitigation
12 technologies to the county assessor.

13 (3) In order to receive the exclusion, the property owner shall
14 notify the assessor prior to, or within 30 days of, completion of
15 the project that he or she intends to claim the exclusion for
16 seismic retrofitting improvements or improvements utilizing
17 earthquake hazard mitigation technologies. The State Board of
18 Equalization shall prescribe the manner and form for claiming
19 the exclusion. All documents necessary to support the exclusion
20 shall be filed by the property owner with the assessor not later
21 than six months after the completion of the project.

22 (e) (1) Notwithstanding subdivisions (a) and (b), “newly
23 constructed” and “new construction” does not include seismic
24 retrofitting improvements or improvements utilizing earthquake
25 hazard mitigation technologies to an existing building or
26 structure.

27 (d) (1) Notwithstanding subdivisions (a) and (b), “newly
28 constructed” and “new construction” do not include the specific
29 portion of construction or reconstruction of seismic retrofitting
30 components, as defined in subdivision (f), on an existing
31 structure.

32 (2) The property owner, primary contractor, civil or structural
33 engineer, or architect shall certify to the building department
34 those portions of the project that are seismic retrofitting
35 improvements or improvements utilizing earthquake hazard
36 mitigation technologies. Upon completion of the project, the
37 building department shall report the value of those portions of the
38 project that are seismic retrofitting improvements and
39 improvements utilizing earthquake hazard mitigation
40 technologies to the county assessor: *components, as defined in*

1 *subdivision (f). Upon completion of the project, the building*
2 *department shall report to the county assessor the costs of the*
3 *portions of the project that are seismic retrofitting components.*

4 (3) In order to receive the exclusion, the property owner shall
5 notify the assessor prior to, or within 30 days of, completion of
6 the project that he or she intends to claim the exclusion for
7 ~~seismic retrofitting improvements or improvements utilizing~~
8 ~~earthquake hazard mitigation technologies. The State Board of~~
9 *seismic retrofitting components. The State Board of Equalization*
10 *shall prescribe the manner and form for claiming the exclusion.*
11 *All documents necessary to support the exclusion shall be filed*
12 *by the property owner with the assessor not later than six months*
13 *after the completion of the project.*

14 (4) This subdivision shall only apply to projects completed on
15 or after January 1, 1991.

16 ~~(f)~~

17 (e) (1) Notwithstanding the provisions of subdivisions (a) and
18 (b), where a tank must be improved, upgraded, or replaced to
19 comply with federal, state, and local regulations on underground
20 storage tanks, “newly constructed” and “new construction” does
21 not mean the improvement, upgrade, or replacement of a tank to
22 meet compliance standards, and the improvement, upgrade, or
23 replacement shall be considered to have been performed for the
24 purpose of normal maintenance and repair.

25 (2) Notwithstanding the provisions of subdivisions (a) and (b),
26 where a structure, or any portion thereof, was reconstructed, as a
27 consequence of completing work on an underground storage tank
28 to comply with federal, state, and local regulations on these
29 tanks, timely reconstruction of the structure shall be considered
30 to have been performed for the purpose of normal maintenance
31 and repair where the structure, or portion thereof, after
32 reconstruction is substantially equivalent to the prior structure in
33 size, utility, and function.

34 ~~(g) For purposes of this section:~~

35 (f) *For purposes of this section, all of the following apply:*

36 (1) *“Seismic retrofitting components” means seismic*
37 *retrofitting improvements and improvements utilizing earthquake*
38 *hazard mitigation technologies.*

39 ~~(h)~~

(2) “Seismic retrofitting improvements” means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. “Seismic retrofitting improvements” also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. “Seismic retrofitting improvements” does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. “Seismic retrofitting” includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(2)

(3) “Improvements utilizing earthquake hazard mitigation technologies” means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code.

SEC. 2. Section 74.5 of the Revenue and Taxation Code is repealed.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

6 However, if the Commission on State Mandates determines
7 that this act contains other costs mandated by the state,
8 reimbursement to local agencies and school districts for those
9 costs shall be made pursuant to Part 7 (commencing with Section
10 17500) of Division 4 of Title 2 of the Government Code.

11 SEC. 5. This act provides for a tax levy within the meaning of
12 Article IV of the Constitution and shall go into immediate effect.

13 SEC. 6. This act shall become operative only if Senate
14 Constitutional Amendment _____ 28 of the 2005-06 Regular
15 Session ~~is approved by voters at the June 6, 2006, statewide~~
16 ~~primary~~ *is approved by voters at the November 7, 2006,*
17 *statewide general* election and, in that event, shall become
18 operative on the date upon which this act is chaptered or the
19 effective date of that measure, whichever is later.